

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Edgecliff Condominium	:	Case No. 1:08-cv-324
Association, et al,	:	
	:	
Plaintiffs,	:	
	:	
vs.	:	
	:	
Kevin D. Cogan, et al,	:	
	:	
Defendants.	:	

ORDER GRANTING TEMPORARY RESTRAINING ORDER

Before the Court is Plaintiffs' Motion for a Temporary Restraining Order, or the appointment of a receiver. (Doc. 2) Notice was provided to the Defendants, and the Court conducted a conference with the parties on Tuesday, May 13, 2008, and a hearing on Wednesday, May 14, 2008. The Court hereby grants Plaintiffs' motion in part, and enters a Temporary Restraining Order to take effect immediately upon entry of this Order, and to expire on Monday, May 19, 2008 at 5 p.m. This Temporary Restraining Order is subject to a further extension and subject to granting further or additional relief.

Plaintiffs own condominium units at the Edgecliff Condominium in Cincinnati, Ohio. Plaintiffs' Verified Complaint alleges that Defendants have violated several Ohio statutes, and alleges common law claims of conversion and civil conspiracy. The Defendants are the developer of the Edgecliff Condominium building (Kevin Cogan), two of his LLCs, and several individuals

who either previously served on the Condominium Board of Directors or who were elected to the Board in a contested April 24 election. Plaintiffs allege that the developer has refused to pay required assessments on the units he still owns at Edgecliff. They also allege that the developer and/or his appointed Board members have improperly charged the Condominium Association for expenses incurred for his unsold units, and have improperly accounted for the developer's arrearages on the Association's books and records.

Plaintiffs called a special meeting of the Association, the agenda for which included the election of a new board of directors, and discussion of various options to address the developer's arrearages. At that meeting on April 24, the developer-appointed Board members announced that 60 units previously owned by the developer's LLC had been transferred to new ownership and the assessment arrearages had been paid in full. The new owner was a newly-formed LLC owned by the developer and his family members. Plaintiffs allege this transfer was a fraudulent conveyance, designed to permit the developer to maintain control over the Association's Board in violation of the Ohio condominium law.

Plaintiffs' motion for a temporary restraining order and preliminary injunction requested broad injunctive relief against the Defendants. After consideration of the arguments presented

by all parties, the Court finds that Plaintiffs are entitled to temporary injunctive relief, which this Court may grant under Fed. R. Civ. P. 65. The Court finds that Plaintiffs have shown a strong likelihood of success on the merits of their claims; indeed, many of the essential facts are not in dispute. The Court also finds that Plaintiffs will suffer irreparable injury without a temporary order to preserve the status quo. Issuance of this temporary order will not cause substantial harm to others, in view of the parties' agreement to engage in substantial efforts at resolution of some or all of their pending disputes. Finally, the Court finds that the public interest is served by issuing this temporary order, to preserve the status quo between the parties. See, e.g., Leary v. Daeschner, 228 F.3d 729, 736 (6th Cir. 2000).

Therefore, the Court hereby enjoins the Defendants from taking, or causing to be taken, any action that would benefit the pecuniary or property interests of any Defendant and that would also result in a detriment to any owner of any Edgecliff condominium unit (other than a Defendant-owner). The Court will hold a further hearing on Plaintiffs' motion on Monday, May 19, 2008 at 9:00 a.m.

SO ORDERED.

DATED: May 15, 2008

s/Sandra S. Beckwith
Sandra S. Beckwith, Chief Judge
United States District Court